

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Kenneth Brian Young,

Civil No. 05-454 (RHK/SRN)

Plaintiff,

ORDER

v.

Minnesota Department of Corrections at
Rush City, Sergeants Selk and Coolidge,
Warden Feneis, Associate Wardens Zawacki and
Cosgrove, Officers John Doe and Richard Roe,
Frederick Bernard Tyus, Richard Joseph Martin,
and Edward Wayne Whitefeather,

Defendants.

The undersigned has reviewed de novo the August 8, 2006, Report and Recommendation of Magistrate Judge Susan Richard Nelson and the Objections thereto of Defendants Selk and Coolidge. That review satisfies the Court that the proposed resolution of the pending Motions to Dismiss should be adopted.

Accordingly, and upon all the files, records and proceedings herein, **IT IS**

ORDERED:

1. The Objections of Defendants Selk and Coolidge (Doc. No. 77) are

OVERRULED;

2. The Report and Recommendation (Doc. No. 76) is **ADOPTED;**

3. The Motion to Dismiss, or, in the alternative, Motion for Summary Judgment, filed by Defendants Minnesota Department of Corrections, Coolidge and Selk (Doc. No. 36) is **GRANTED IN PART AND DENIED IN PART**. Summary

judgment is granted in favor of Defendant Minnesota Department of Corrections and Defendants Selk and Coolidge in their official capacities and denied as to Defendants Selk and Coolidge in their personal capacities;

4. Defendant Martin's Motion to Submit Evidence (Doc. No. 49) is **GRANTED**;

5. Plaintiff's Second Motion to Amend/Correct the Complaint (Doc. No. 58) is **GRANTED**; and

6. The Motion to Dismiss, or, in the alternative, Motion for Summary Judgment, filed by Defendants Zawacki, Minnesota Department of Corrections, Cosgrove, Coolidge, Feneis and Selk (Doc. No. 64) is **GRANTED IN PART AND DENIED IN PART**. Summary judgment is granted in favor of Defendant Minnesota Department of Corrections and Defendants Feneis, Zawacki, Cosgrove and to Defendants Selk and Coolidge in their official capacities. Summary judgment is denied as to Defendants Selk and Coolidge in their personal capacities.

Dated: September 18, 2006

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge